

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 4:20-CR-210-JAR
)
ROBERT LEWIS,)
)
Defendant.)

**DEFENDANT LEWIS' NOTICE OF INTENT AND MOTION IN LIMINE TO ADMIT
SELF-AUTHENTICATING RECORDS**

Defendant Robert Lewis ("Lewis"), by and through undersigned counsel, respectfully gives notice that he intends to introduce evidence pursuant to Federal Rule of Evidence 902(11).

The Federal Rules of Evidence allow for business records to be admitted in evidence at trial without a custodian of records testifying about their authenticity. Specifically, Federal Rule of Evidence 902 reads, in pertinent part:

(11) Certified Domestic Records of Regularly Conducted Activity. The original or a duplicate of a record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration of its custodian or other qualified person certifying that the record:

- (A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
- (B) was kept in the course of regularly conducted activity; and
- (C) was made by the regularly conducted activity as a regular practice.

A party intending to offer a record into evidence under this provision must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of offering the evidence at issue for admission so as to

provide an adverse party with a fair opportunity to challenge them. *See Fed. R. Evid. 902(11).*

Pursuant to the notification requirement of Rule 902(11), Lewis hereby gives notice of his intention to admit at trial business records provided by the custodian of records for the City of St. Louis/Emergency Medical Services. These records were provided in full to the Government on June 23, 2021, along with correspondence notifying the Government of Lewis' intention to admit these records at trial pursuant to Rule 902(11). The custodian of records for the City of St. Louis/Emergency Medical Services has executed a certification attesting to the following:

- that the records were made at or near the time of the occurrence of the matters set forth therein, by or from information transmitted by, a person with knowledge of those matters;
- that the records were kept in the course of regularly conducted business activity; and
- that the records were made by the regularly conducted business activity as a regular practice.

The certification was provided to the Government in this case on June 23, 2021.

This declaration contains all of the information and requirements proscribed by Rule 902(11). Therefore, extrinsic evidence of authenticity is not required as a condition precedent to the admissibility of these records. *See Fed. R. Evid. 902.* Admission of these records pursuant to Rule 902(11) will also obviate the need for a custodian of records to testify at trial to the authenticity and business records nature of these records and is, therefore, in the best interest of judicial economy.

For the foregoing reasons, Lewis respectfully requests that this Court issue an order in limine permitting the introduction of business records provided by the City of St. Louis/Emergency Medical Services and for any such further relief that this Court deems appropriate.

Respectfully submitted,

Margulis Gelfand, LLC

/s/ Justin K. Gelfand

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Certificate of Service

I hereby certify that the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the Office of the United States Attorney and all other counsel in this case.

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